

This record is a partial extract of the original cable. The full text of the original cable is not available.

261214Z May 05

ACTION EAP-00

INFO LOG-00 NP-00 AID-00 CA-00 CIAE-00 CTME-00 INL-00
DODE-00 ITCE-00 DS-00 EB-00 EXME-00 EUR-00 E-00
FBIE-00 UTED-00 VC-00 FRB-00 H-00 TEDE-00 INR-00
LAB-01 VCE-00 AC-00 NSAE-00 OES-00 OMB-00 OPIC-01
GIWI-00 ACE-00 SGAC-00 SP-00 IRM-00 SSO-00 STR-00
TRSE-00 EVR-00 FMP-00 BBG-00 IIP-00 DSCC-00 PRM-00
DRL-00 G-00 NFAT-00 SAS-00 SWCI-00 /002W
-----F5954D 261123Z /38

FM AMCONSUL HO CHI MINH CITY
TO SECSTATE WASHDC IMMEDIATE 1542
USDOC WASHDC IMMEDIATE
INFO AMEMBASSY HANOI PRIORITY
DEPT OF TRANSPORTATION WASHDC PRIORITY
NSC WASHDC PRIORITY
AMEMBASSY PARIS PRIORITY
AMEMBASSY TOKYO
AMEMBASSY BANGKOK

UNCLAS HO CHI MINH CITY 000561

SIPDIS

SENSITIVE

DEPARTMENT PASS EXIM BANK AND OPIC
DEPARTMENT PASS USTR, ELENA BRYAN
STATE FOR EAP/BCLTV AND EB/TPP/ABT/BTT
USDOC FOR 4430/MAC/ASIA/OPB/VLC/HPPHO
USDOC FOR ADVOCACY CENTER
PARIS FOR USOECD

E.O. 12958: N/A

TAGS: [ETRD](#) [BEXP](#) [BTIO](#) [EAID](#) [PREL](#) [VM](#)

SUBJECT: INTERVENTION NEEDED TO SAVE JETWAYS DEAL IN VIETNAM

REF: Ho Chi Minh City 000529

1. (U) This is an action request for State and DOC. Urgent intervention is needed with Japanese agencies in Washington to ensure a US supplier does not get ODA'd out of USD 4.6 million sale with considerable follow-on potential.

2. (SBU) Summary: Over the past days, State and Commercial Service officers in Vietnam and Tokyo have held a series meetings with Japanese and Vietnamese officials to try and prevent the loss of the \$4.6 million contract for the supply of passenger boarding bridges (PBBs) manufactured by FMC Jetway Corp. (see reftel). Discussions focused on the requirements specifying the use of FMC PBBs in the contract between the Japanese contractor, KTOM, and the Southern Airports Authority (SAA). Time is running short with SAA under pressure to accept the substitute product or take blame for delaying the high profile project. We need to exert all available pressure now, including in Washington to get JBIC and KTOM to live up to the terms of the contract with SAA. End Summary

3. (SBU) On May 25, State and Commerce officers met with JBIC officials in Tokyo and Hanoi to discuss this case. JBIC Tokyo declined to intervene in this matter, but did threaten that future cooperation with USAID HIV/AIDS programs in Vietnam could be jeopardized if the USG presses too hard on this issue. JBIC Hanoi officials took a different tack, suggesting that FMC was not mentioned in the prequalification tender documents. Embassy officials pointed out that this was irrelevant since the final signed contract calls for the use of FMC equipment. When asked what would JBIC's position be if KTOM was found to be in breach of contract on this matter the JBIC official responded that JBIC would have to take some action, but did not elaborate.

4. (SBU) Embassy officials in Hanoi also reminded JBIC officials of a March 2005 letter sent by SAA to KTOM stating that a change in suppliers of the kind sought by KTOM could constitute a violation of Vietnamese law. According to SAA's letter, given that the signed contract was approved by relevant Vietnamese Government agencies, KTOM and SAA do not have the authority to revise the contract and such revisions could be considered illegal. Emboffs said they would expect JBIC to be concerned if one of their projects involved a breach of contract and possibly even a violation of Vietnamese law.

5. (SBU) Consul General and PCO met with SAA officials in HCMC on May 26 to review the actions we have taken on behalf of FMC and SAA. The SAA project management director told us that he was under pressure from Hanoi to keep this project on schedule, and that that if this dispute over the sourcing of PBBs delayed the project he would be held responsible. He told us that the ball is in our court, and asked us to do whatever we can to convince JBIC and KTOM to accept the FMC PBBs.

16. (SBU) We have received a copy of the key portions of the contract between KTOM and SAA which clearly specify in detail that FMC PBBs are to be supplied by KTOM. It is now time for Washington to weigh in with JBIC and the Japanese Embassy. With the clear evidence in the contract that FMC equipment was agreed upon by KTOM and that they then pulled a "bait-and-switch" by changing to Shinmaywa PBBs, we should urge JBIC to honor the original contract terms. To the extent that there is a real issue with the 50% Japanese content requirement, they should pursue another option that does not involve breaching their commitments to SAA on procurement involving less than 2 percent of the total contract.

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